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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/776,689

**Applicant(s)**

DRESDEN, SCOTT

**Examiner**

DOHM CHANKONG

**Art Unit**

2452

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 July 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 8-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This final rejection is in response to Applicant's arguments which were filed on 7/30/2009. No claims are amended. Claims 8-14 are presented for further examination.

#### ***Response to Arguments***

#### **I. RESPONSE TO APPLICANT'S ARGUMENTS WITH RESPECT TO THE § 103 REJECTIONS**

Applicant argues that (A) one of ordinary skill in the art would not have been motivated to have modified Duckett in view of Santos to arrive at the limitations of claims 8-11; (B) one of ordinary skill in the art would not have been motivated to have modified Santos in view of Rowley to arrive at the limitations of claims 12-13; and (C) one of ordinary skill in the art would not have been motivated to have modified Santos in view of Rowley and Hentzel to arrive at the limitations of claim 14.

#### **A. Rejection of claims 8-11 under Duckett in view of Santos**

Specifically, Applicant argues that the combination of Duckett and Santos would have not have been obvious because (1) Duckett is directed towards playing back actions of one particular customer which is used to evaluate the particular customer's interaction with a website while Santos is directed to creating a model based on recorded actions of customers and using this model to perform automated transactions with a website; (2) Santos "has nothing to do with a virtual video that is watched on a display" (as in Duckett's system) and that there is no motivation suggesting that demographic information would have improved Duckett's virtual video. Applicant's arguments are not persuasive for the following reasons.

1. Contrary to Applicant's argument, Duckett is not limited to recording and replaying the actions of a *single* user.

Applicant oversimplifies the art in characterizing Duckett's invention as "simply teaching recording the actions of a customer interacting with a website and then playing back those recorded actions on a display." This characterization inaccurately limits Duckett's invention to a single user. Specifically, Duckett discloses:

"Initially *one or more users* is allowed to use a service supported by the server 3 which is to be tested, and whilst doing so *their* activity is monitored in step 100 using the prophet or Vigilante systems described above. This monitored activity is then recorded as a script in step 101" [0153].

The italicized portions of the cited section clearly illustrate Duckett's invention monitoring the actions of more than one user. Read in light of this citation, Duckett's system is therefore also directed to recording actions of a plurality of users and then playing back these record the actions of a plurality of users. In a similar vein, Santos discloses recording the actions of more than one user and playing back these recorded actions in the form of a behavior model [0014]. Thus, the references are not as "vastly different" as Applicant argues.

2. Duckett's virtual video is irrelevant to the combination because the combination is between Duckett's behavior model and Santos' behavior model.

Applicant further argues that Santos has nothing to do with a virtual video that is watched on a display. Applicant asserts that "there is nothing in the teaching of Santos et al that would have suggested that obtaining demographic information would have improved the virtual video of Duckett [sic] et al." Applicant argues that "Duckett [sic] et al. do not teach anything related to using a behavior model to automatically perform transactions with a website." Applicant's argument again inaccurately characterizes Duckett's invention.

As indicated in the preceding subsection, both Duckett and Santos teach collecting monitored user interactions with a website. Duckett discloses: "monitoring and recording activities instigated by *at least one user* when using the services supported by the server system and playing back activities recorded in the above step" [0082, 0083]. Duckett's recording of at least one user is essentially the creation of a "behavior model." Santos describes that his behavior model includes recorded website usage patterns (i.e., recorded user actions with the website).

Duckett's recorded activities are then utilized to perform transactions with a website: " In particular, it is possible to *simulate heavy usage* of the system and investigate how the system behaves. Such testing may be termed load testing and might be used to *establish the effect of say 1000 or 10000 users simultaneously attempting to use a web site*" (emphasis added) [0054]. Duckett clearly describes using a behavior model (recorded user activities) which is similar to Santos' model in order to perform simulated transactions on a website.

Prior to running the simulation, Santos introduces an additional step of organizing the collected interactions based on user demographics in order to simulate specific interactions based on these demographics [0005: different behavior models for different segments of website customers | 0014: simulating interaction with a server based on the model]. The proposed combination is therefore between Duckett's behavior model (which is simply a collection of (more than one) user interactions) and Santos' behavior model (which is an *organized* collection of (more than one) user interactions).

Santos' behavior model thus represents an enhancement of Duckett's behavior model which does not organize the user actions after they have been collected. Santos describes one

benefit of the segmentation feature as being able to more assign different ratings to the same website based on different customer segments [0031]. Based on this improvement to Duckett's simulation, it would have been obvious to one of ordinary skill in the art to have modified Duckett's behavior model to include the ability to segment its users as taught in Santos.

**B. Rejection of claims 12 and 13 under Santos in view of Rowley.**

Applicant argues that Santos' invention would not benefit from having a display that allows user to graphically view the actions of the simulation. The test for obviousness is not whether there is a "need" to modify the reference but whether it would have been obvious to one of ordinary skill in the art to have performed such a modification.

Santos and Rowley both are directed towards collecting user actions with a website and using those actions to simulate interaction with a website. As acknowledged in the action, Santos does not disclose displaying the feature of using actions to simulate model. However, Rowley does disclose this feature and describes that such a feature allows users to review the simulated actions [column 1 «lines 35-38»] and control the simulation [Fig. 7 | column 6 «lines 15-27»]. This display is not for the benefit of the end-user but an administrator of the website who could use such information to fix his website.

Applicant further argues that the examiner relies on unrelated features taught in Santos and Rowley to arrive at the modification. The comparison of features was to illustrate that Santos and Rowley were directed at similar inventions. Santos discloses using a behavior model to simulate user sessions with a website [0016]. This behavior model is based on actual interactions (packets) with a website [0014: "website usage patterns"]. Applicant incorrectly asserts that modification is displaying Santos' behavior model. In actuality, the proposed

combination would modify Santos' simulation (which is based on the behavior model) to include a display of that simulation as taught by Rowley.

Thus, the examiner maintains that it would have been obvious to have modified Santos' system to include the simulation display as taught in Rowley. Modifying Santos to include Rowley's simulation display is an example of using a known technique (Rowley's displaying of simulated user actions) to improve similar systems (Santos' system of simulating user actions) in the same way (Santos' system improved to allow a user (not an end-user) to view simulated actions of his website). *See MPEP § 2143.*

**C. Rejection of claim 14 under Santos in view of Rowley and Hentzel**

Applicant rehashes the arguments made with respect to the rejection of claims 12 and 13. For at least the same reasons discussed in the preceding section, Applicant's arguments are not persuasive.

**D. Conclusion**

For the foregoing reasons, Applicant's arguments are not persuasive. The rejections as set forth in the previous action are therefore maintained.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**II. CLAIMS 8-11 ARE REJECTED UNDER 35 U.S.C. §103(A) AS BEING UNPATENTABLE OVER DUCKETT ET AL, U.S. PATENT PUBLICATION NO. 2003|0053420 ["DUCKETT"], IN VIEW OF SANTOS ET AL, U.S. PATENT PUBLICATION NO. 2004|0176992 ["SANTOS"], IN FURTHER VIEW OF COPLEY ET AL, U.S. PATENT PUBLICATION NO. 2003|0061305 ["COPLEY"].**

For the following claim mappings, all citations are to Duckett unless otherwise noted.

**Claim 8**

As to claim 8, Duckett as modified by Copley and Santos discloses a method for tracking and presenting information regarding the behavior of a plurality of users on a series of web pages, include the acts of:

displaying an initial content menu screen with at least one link [Copley, 0070];

when a content user chooses a desired link from the initial content menu screen, prompting the content user for statistical information when said content user chooses a desired link and storing said information on an electronic database [Copley, 0070 & Santos, 0027];

after the content user has successfully entered the statistical information, returning to a first content screen including links to a plurality of content screens [Copley, 0070: redirected back to the original page];

recording links selected by the user from first content screen as long as said users' choices are recordable [0022, 0024, 0126]; and

replaying the recording of at least one of the choices selected by the user in the perspective of the user and in correlation with the statistical information in a browser simulator [0156, 0194 – replay as a “virtual video” of the user interactions & Santos, 0016, 0017 – replaying based on demographic information].



As indicated in the foregoing mapping, Duckett does not expressly disclose the features related to the initial content menu screen. Duckett does not disclose displaying an initial content menu screen or that when a content user chooses a desired link from the initial content menu screen, prompting the content user for statistical information and storing the statistical information in an electronic database, or after successfully entering the statistical information, returning to a first content screen including links to a plurality of content screens. However, all three limitations were well known features in the art as evidenced by Santos and Copley.

Copley discloses displaying an initial content menu screen with at least one link [0070: Copley discloses an "original page"] and when a content user chooses a desired link from the initial screen, prompting the content user for statistical information [0070: "[u]pon execution" the user is redirected to a form asking about demographic data], and after successfully entering the statistical information, returning a first content screen [0070: user is redirected back to the original page after submitting demographic information]. Copley teaches the well known feature of requesting a user for personal information prior to delivering content to the user so as to obtain useful information about the user. It would have been obvious to one of ordinary skill in the art to have modified Duckett's method to include Copley's demographic information functionality so as to request the useful information from the user. Santos discloses that this information is especially useful in click-flow tracking methods such as those taught by Duckett and claimed by Applicant. For example, Santos discloses that demographic data obtained from a customer can be used to develop better simulations of web-page activity which provides better evaluations of a website [0014, 0027]. Therefore, one of ordinary skill in the art would have been motivated to modify Duckett's tracking system in order to provide better website

simulations based on user demographic information. Additionally, Santos discloses replaying the recording of the users' choices in correlation with the statistical information [0016: replaying a session based on customer segments which is derived from the statistical demographic information collected from the user].

**Claim 9**

Duckett as modified by Santos and Copley discloses the act of recording the time said user takes between each link [Figure 6 - use of event time stamps].

**Claim 10**

Duckett as modified by Santos and Copley discloses said replaying step includes replaying a plurality of users' [0157 & Santos, 0016 – replaying a session for an entire customer segment].

**Claim 11**

Duckett as modified by Santos and Copley discloses said replaying steps includes selecting a criteria from said statistical information entered by said user [0183-0186 – selecting a filter & Santos, 0016 – selecting a specific customer segment such as “customers who are on a budget”].

**III. CLAIMS 12 AND 13 ARE REJECTED UNDER 35 U.S.C. §102(E) AS BEING ANTICIPATED BY SANTOS ET AL, U.S. PATENT PUBLICATION NO. 2004/0176992 [“SANTOS”], IN VIEW OF ROWLEY ET AL, U.S. PATENT NO. 7.296.080 [“ROWLEY”].**

All citations are to Santos unless otherwise noted.

**Claim 12**

Santos discloses a method for tracking and presenting information regarding the behavior of a plurality of users on a series of web pages, include the acts of:

indexing a plurality of site visitors [0017, 0018: grouping customers by customer data and segmentation rules];

detecting an activation event caused by the site visitors [0027: detecting user's interactions with a website];

recording at least one action of each of the site visitors, and storing the at least one action in accessible electronic storage [0014, 0027: information stored in a database];

selecting an index criteria, said criteria based on criteria action from the at least one recorded action [0027: index criteria such as demographic information];

recalling all stored actions from all indexed recorded data matching the index criteria [0020, 0028: collecting all actions related to the same group of customers or customer segments];

statistically compiling said recalled stored actions [0016, 0020: statistically compiling the collection actions];

presenting said statistically compiled actions into at least one browser simulation [0016] being displayed on a display [Rowley, column 2 «lines 23-32» and column 7 «lines 52-63»].

Santos does not expressly disclose displaying the statistically compiled actions on a display. However, such a feature was well known in the art at the time of Applicant's invention as evidenced by Rowley. Like Santos, Rowley is directed to a system for using collected recorded user actions to simulate a network connection [*Santos*, 0014-0016 & *Rowley*, column 1 «lines 50-57»]. Rowley improves upon Santos' invention by including a display that allows users to graphically view the actions of the simulation. One benefit of a display is that it enables users to quickly navigate through the actions of the simulation [*Rowley*, column 7 «lines 15-17»]. Modifying Santos to include a display (to display Santos' statistically compiled actions) is merely

an example of using a known technique (Rowley's display of a simulation of collected user actions) to improve similar devices (Santos' simulation of statistically compiled user actions) in the same way (allow users of Santos' system to view the simulation).

### **Claim 13**

Santos discloses said indexing step includes said timing of sub actions [0027: how long the customer typically accesses the site].

**IV. CLAIM 14 IS REJECTED UNDER 35 U.S.C. §103(A) AS BEING UNPATENTABLE OVER SANTOS AND ROWLEY, IN VIEW OF HENTZEL ET AL, U.S. PATENT NO. 6,877,007 ["HENTZEL"].**

All citations are to Santos unless otherwise noted.

Santos discloses a system for studying the behavior of visitors to an Internet site including:

an indexing system for identifying a plurality of visitors [0017, 0018: grouping customers by customer data and segmentation rules];

an event initiation module for triggering the recording of the browser behavior of each of the plurality of visitors [Figure 1 «item 20» | 0026: agent gathering the data when a customer starts browsing the website];

an event termination module for terminating the recording of the browser behavior [Hentzel, column 13 «lines 3-15»];

data storage coupled with said Internet site [Figure 1 «item 14»];

a behavior organization module coupled with said data storage, said behavior organization module configured to retrieve selected recordings from said at least one recording

and compile data representative of at least some of the visitors browser behavior, wherein said behavior organization module uses at least one criteria to select the selected recordings [Figure «item 16» | 0027: the mining system collects and aggregates the collected data based on customer segments]; and

a browser simulator configured to take data from said behavior organization module [Figure 1 «item 56» | 0016] and to display a browser simulation based on said compiled data representing the browser behavior of at least some of the plurality of visitors [Rowley, column 2 «lines 23-32» and column 7 «lines 52-63» (see rejection of claim 12 for motivation to combine)].

Santos does not expressly disclose an event termination module for terminating the recording of said browser behavior. However a module that terminates the recording of browser behavior was well known in the art at the time of Applicant's invention as evidenced by Hentzel. Like Santos, Hentzel is directed a system for tracking a user's interaction with web pages [abstract]. Hentzel discloses a termination module that terminates the recording of a browser's behavior [column 13 «lines 3-15»]. It would have been obvious to one of ordinary skill in the art to have modified Santos' tracking system to include a termination module as taught by Hentzel. The use of a termination module would improve Santos as it would provide a signal to Santos' tracking system to terminate the recording of the browser behavior.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOHM CHANKONG whose telephone number is (571)272-3942. The examiner can normally be reached on Monday-Friday [8:30 AM to 4:30 PM].

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thu Nguyen can be reached on (571)272-6967. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Dohm Chankong/  
Primary Examiner, Art Unit 2452